



Thank you for participating in CBP's Webinar on Importer Security Filing (ISF) for ISF-5 Enforcement held on Friday, March 15, 2019. Please find below a list of questions submitted during the webinar and answered to the best of the combined presenters' knowledge. To review the recorded webinar, please visit <http://dhs.adobeconnect.com/p96h20wdyfej/>. Please send additional ISF questions to CBP at security_filing_general@cpb.dhs.gov.

ISF-5 Rule

- 1) **If an ISF-10 is filed for cargo moving in transit to Canada, is this considered a violation for CBP purposes?**
No, this is not considered a violation by CBP; ISF-10 can always be filed in lieu of ISF-5.
- 2) **How does the new rule treat the liability of non-Federal Maritime Commission (FMC) registered foreign non-vessel operating common carriers (NVOCCs) for ISF-5 filing?**
All NVOCCs are required to comply with the ISF-5 rule, even foreign NVOCCs.
- 3) **If the NVOCC fails to file the ISF-5, is the importer liable for the fines or the NVOCC?**
If the NVOCC was the responsible party (i.e. the NVOCC caused the goods to enter into the port limits of the United States and is the party that issued the house bill of lading (HBL) at the lowest level), then the NVOCC is responsible. This statement applies to Ocean Carriers as well. Importers are not responsible for filing ISF-5 for Foreign Cargo Remaining on Board (FROB) cargo.
- 4) **If the NVOCC files the HBL and can appoint a service provider (which includes the Ocean Carrier):**
 - a) How can the Ocean Carrier file the ISF-5 at the NVOCC HBL filer's SCAC?
The Ocean Carrier cannot file an ISF-5 for an NVOCC at the HBL level. The NVOCC is liable for the ISF-5 if they issued the HBL and they are automated, otherwise the NVOCC should consider hiring a third-party service provider.
 - b) Or, can this be filed under the Ocean Carrier SCAC different to the HBL SCAC?
No.
- 5) **If an NVOCC is to file ISF-5 then the NVOCC needs to obtain a Customs Power of Attorney (POA) and from whom?**
You did not clarify which type of ISF-5 this is, so the answer can vary as follows:
 - For an ISF-5 for FROB, the ISF Importer is the Ocean Carrier or the NVOCC. The NVOCC would not need a POA in this instance since they are the ISF Importer if you issue the HBL.
 - For an ISF-5 involving Immediate Exportation (IE), Transportation & Exportation (T&E) or Foreign Trade Zone (FTZ) shipment, the ISF importer has been expanded from being the party filing the IE, T&E, or FTZ paperwork to include the owner of the goods, purchaser, consignee, or designated agent, such as a licensed customs broker. In these instances, you would need to get a POA from the owner, importer or consignee or whichever party caused the goods to enter the port limits of the United States and has the best access to file the ISF-5. In some instances, that may be the NVOCC, freight forwarder, or other third party who would act as the ISF Importer and thus no POA would be required.
- 6) **If the NVOCC is the responsible party to file ISF-5, does this mean that they will be the party fined when ISF is not filed or filed late?**
Yes, if it is an ISF-5 FROB cargo shipment, the NVOCC would receive the liquidated damages claim. If IE or T&E, it will depend on the party that caused the goods to enter the port limits of the United States by vessel.
- 7) **Foreign NVOCC does not have an office in the USA but the vessel is transiting USA. The NVOCC also does not have a bond with CBP. Can the Ocean Carrier file ISF-5 for them?**



We assume you are issuing the HBL, which would make you the party most likely to have the data to file the ISF-5. You may opt to hire a third-party service provider to file the ISF-5 on your behalf.

- 8) **What if the consignee has the shipper book the freight? How would the broker know if the vessel was going to discharge in Canada prior to the vessel discharging in United States prior to Canada?**

This is why the Ocean Carrier or NVOCC is responsible to file the ISF-5 for FROB cargo. They would have access to the information to file the ISF-5.

- 9) **I am confused. If Carrier or NVOCC must provide the ISF-5, why would the definition be broadened to allow the cargo owner to be the ISF Importer or does it mean that the cargo owner is just listed as the ISF Importer but the carrier or NVOCC still is responsible for the filing?**

The definition was expanded to include the cargo owner on ISF-5 shipments for IE, T&E and FTZ transactions only. As discussed during the webinar, for ISF-5 FROB cargo, the definition was expanded to include the NVOCC. In the case of ISF-5 FROB cargo, the Ocean Carrier is responsible if they issue a Straight Bill of Lading (BOL), and the NVOCC is responsible if they issue the HBL. ISF has always been based on the lowest bill of lading level and that generally dictates the responsible party for ISF-5.

- 10) **If a container is arriving to the US via ocean then rail to Canada are you saying the owner of the goods is responsible for ISF-5? Previously, the ocean carrier has been filing.**

No, the Ocean Carrier or NVOCC is responsible for the ISF-5 for any FROB shipments of this nature.

- 11) **My main question is, ISF-5 now required for a vessel docking in Vancouver, and moving in-transit to Chicago?**

No, an ISF-5 is only required if the goods enter at any U.S. ocean port via vessel. In your example, that is not the case so no ISF-5 is required.

- 12) **How about cargo that goes directly to Vancouver, Canada, does not call Seattle and then is routed via rail to Chicago?**

An ISF-5 is only required if the goods enter at any U.S. ocean port via vessel. In your example, that is not the case so no ISF-5 is required.

- 13) **Is an ISF-10 or 5 within the 24-hour rule as long as it is filed 24 hours from LAST foreign port (i.e. departs Valencia, stops in Bahamas - can be filed in Bahamas 24 hours before vessel departs)**

It is always helpful to remember that ISF timeliness is based on loading and departure of the mother vessel, which in this case would mean that the ISF is due in Valencia.

- 14) **Based on the information provided, ISF-5 must be transmitted on export freight out of Canada too? We have never received that information from Customs.**

No, that was not the information provided in the webinar or the scenarios. All the examples showed goods entering the port limits of the United States at some point, which is why an ISF-5 was required in those instances.

- 15) **If we import product from China and it goes directly to Canada for our customer, but we are the IOR for the shipment, would we have to file ISF-5?**

No, you do not need to file an ISF-5 if the goods never arrive at a U.S. ocean port of entry.

- 16) **If the vessel was originally destined to other country, such as Canada, but it calls at one of U.S. ports, is it carrier's responsibility to file the ISF-5 elements?**

Yes, it is the Ocean Carrier or the NVOCC's responsibility to file the ISF-5 for FROB shipments.

- 17) **What if an ISF is not required but filed anyway and was never deleted?**



You need to withdraw the ISF. Failure to withdraw is a violation and you could be subject to receiving a liquidated damages claim.

18) I am confused why is this an ISF-5 into Seattle vs. a traditional ISF-10 into Seattle?

As discussed during the webinar, this scenario shows first port of arrival with FROB as it heads to Canada, so an ISF-5 is required. However, as discussed during the webinar and shown on Slide 13 of the presentation, an ISF-10 can also satisfy the requirement.

U.S. Customs and
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Common ISF-5 Questions

- **When cargo has arrived and has gone to general order, is an ISF-5 required to move the goods to a new consignee outside the country?**
 - An ISF-5 is not required since the cargo is no longer in transit when it goes into General Order. A new transaction must be started to export the cargo. CBP would not preclude the shipment from being exported due to prior violations unless it is prohibited cargo that CBP indicates must be destroyed under supervision.
- **Is an ISF-5 required if an ISF-10 was already filed?**
 - An ISF-5 is not needed if an ISF-10 has been filed.

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19) For non-compliance with ISF-5, what are the ramifications and is there a date that ramifications would start at this point?

Yes, the enforcement date for ISF-5 shipments is March 15, 2019. CBP can issue liquidated damages on or after this date for any ISF-5 violations.

20) For the ISF-5, the Importer of Record (IOR) number needed must be the NVOCC, and the IOR number for the importer of record?

The ISF Importer does not need to be the same as the Importer of Record number for entry into the U.S. In the case of ISF-5 FROB cargo, the Ocean Carrier or NVOCC is responsible because the goods are FROB and these are the parties that have access to the ISF-5 data elements.

21) If cargo is booked to the U.S. and the consignee is arranging the transport to Canada after the cargo discharges, would an ISF-5 or ISF-10 need to be filed?

It sounds like this is an IE or T&E situation, which would require an ISF-5, although an ISF-10 can always be filed instead.

22) If the shipment arrives in Vancouver and rails or trucks to a U.S. port, then we do not need to file ISF?

Yes, you are correct.

23) Would cruise ships be handled the same way? If freight stays on the ship?

Yes.

24) Can the ISF Importer for FROB be the importer of record (IOR), or does it HAVE to be the NVOCC?

For ISF-5 FROB shipments, the ISF Importer is the Ocean Carrier or NVOCC. An IOR will not have information about the ship's routing and would not be able to provide an ISF-5 on time.



For IE, T&E, and FTZ shipments, the definition of ISF Importer also includes the cargo owner, shipper or consignee, or the party that causes the goods to enter the port limits of the United States and has access to the ISF data for the ISF-5 filing.

25) Why would CBP require ISF if the cargo is U.S. origin, not foreign?

We believe you are referring to Slide 15 of the presentation. An ISF-5 was required because additional foreign goods were loaded onto the ocean vessel in Vancouver, Canada and then came to the U.S. port of Seattle before heading to Hong Kong. This example was an ocean shipment from a foreign port arriving at the port of Seattle with FROB and thus an ISF-5 is required. ISFs are not required for U.S.- origin cargo.



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ISF-5 Export Scenario

- **Detroit to Hong Kong**
- **In Transit from Detroit through Canada and loaded onto vessel in Vancouver, Canada**
- **Calls at Port of Seattle before heading to Hong Kong**
 - For arrival into the Port of Seattle, an ISF-5 required for FROB
 - Who provides bond in export situations?
 - Same as import, the NVO/Forwarder would need to file an ISF-5 at the lowest bill of lading denomination and provide their bond to obligate the ISF-5
 - If there is an ISF Importer involved in the transaction that is a business decision and must have contractual arrangements either through POA and/or contract.

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26) What about the situation where a carrier changes the first port of arrival? (i.e., the shipment was booked direct from China to Canada. During the sailing, the decision was made to arrive in the U.S. first due to port congestion in Canada.)

A) Why would this be an NVOCC responsibility?

It sounds like in this scenario, the Ocean Carrier decided late in the voyage to change the routing. In the scenario, no ISF would have originally been required, as the cargo was destined to Canada without a port call in the U.S. In this case, we believe the Ocean Carrier would be responsible for filing the ISFs for what will now be FROB cargo. The NVOCC issued the HBL for the shipment and may not want to provide that information to the Ocean Carrier. In this case, once the Ocean Carrier contacts the NVOCC to inform them of the route change, the NVOCC should file the ISF-5.

B) If the NVOCC files the ISF-5 late, does the NVOCC become responsible for the penalty?

In a nutshell, yes. However, this diversion scenario is different from diversions that are unforeseen and generally unpreventable, so coordination between the NVOCC and the Ocean Carrier will be required. CBP takes a common sense approach to diversions that cannot be avoided.

27) If I currently submit an ISF-10, I don't have to submit an ISF-5?

Yes, that is correct. ISF-10 can be submitted in lieu of an ISF-5.

28) Why is HTS-6 required on ISF-5? Many NVOCCs do not have a customs-house broker division to confirm HTS and importer is unsure of HTS-6. Why not a commodity description only?

The law and regulations require that an HTS at the 6-digit level is required for ISF-5 or ISF-10 shipments. This has been required by law since the ISF Interim Rule has been in place since 2009. There are widely available tools to help convert commodity description into HTS-6.



- 29) **For FROB, I believe the AMS must be filed, correct? If so, who will be responsible to file the AMS? Would this be solely the NVOCC's responsibility?**
The same party who files the Ocean AMS should file the ISF-5 for FROB cargo and will be dependent on which party issued the HBL at the lowest level.
- 30) **Scenario: Master loader issues U.S. destination bill of lading, no knowledge of final destination. NVOCC also issues HBL with U.S. destination. Neither has knowledge nor data for final destination... who is responsible?**
We are not sure we fully understand the question, but it sounds like the NVOCC issued the HBL and would need to file any ISF-5 that would be required in this scenario.
- 31) **Will ISF-5 be matched to AMS on imports and is there any matching done for ISF-5 for exports?**
Yes, CBP does compare Ocean AMS to ISF data but would not do so on exports.
- 32) **A shipment of German goods sails from Antwerp, Belgium to the Port of Detroit. The shipment then has a T&E bond prepared by the IOR, sending the shipment to Mississauga, Ontario. Is the NVOCC responsible to file the ISF-5 or does the responsibility for ISF fall to the IOR?**
Remember that the ISF is due 24 hours prior to the cargo being loaded on the vessel in Antwerp, and it is unclear in your scenario if the T&E bond was prepared after departure from Antwerp, but it sounds like the importer of record has knowledge of this shipment and how the T&E is processed. The NVOCC can file the ISF-5 on behalf of the IOR provided the NVOCC has the proper power of attorney to do so and the importer was the party causing the goods to enter the limits of a port in the United States.
- 33) **I file ISF-5 for shipments that will be re-exported, however when the cargo arrives in the U.S., many times we need to enter them into a bonded warehouse where they will eventually be withdrawn for exportation. ISF-5 ok?**
Based on the way you describe this scenario, we believe you need to file an ISF-10. Please contact CBP if you need further clarification.
- 34) **What do you do when the carrier refuses to file ISF-5 when freight is FROB, stops in U.S. territory before discharging in Canada?**
Based on the way you describe this scenario, CBP would consider issuing liquidated damage claims against the Ocean Carrier if the cargo entered into the port limits of the United States without an ISF on file. Please contact CBP if you need further clarification.
- 35) **What about freight out of Canada too? We have never received that information from Customs.**
An ISF is not required for freight originating from Canada unless it arrives at a U.S. ocean port of entry by vessel or has Foreign Cargo Remaining on Board (FROB) from Canada.
- 36) **Can you confirm who is the ISF Importer for T&E, IT and IE?**
Per the webinar, the definition is provided in 19 CFR 149.1 and can be best explained as follows:
ISF Importer means the party causing goods to arrive within the limits of a port in the United States by vessel.
- *For FROB cargo*, the ISF Importer will be the Ocean Carrier or the Non-Vessel Operating Common Carrier (NVOCC)
 - *For shipments other than FROB cargo*, the ISF Importer will be the goods' owner, purchaser, consignee, or agent such as a licensed customs broker.
 - *For immediate exportation (IE) and transportation and exportation (T&E) in-bond shipments, and goods to be delivered to a Foreign Trade Zone (FTZ)*, the ISF Importer will be the goods owner, purchaser, consignee and may also be the party filing the IE, T&E, or FTZ documentation.
- 37) **Container arrives in Montreal is unladen and moves via rail to the US. What needs to be filed?**
ISF is not required since there was no arrival of a vessel within the port limits of the United States.



- 38) **This is based on slide 12. For FROB direct shipments where there is no NVOCC, who is liable for filing ISF5?**

The Ocean Carrier is liable for ISF-5 FROB cargo when there is no NVOCC involved.



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Common ISF-5 Questions

- **For ISF-5 FROB, can the cargo owner act as the ISF Importer or is that considered non-compliant?**
 - This is a business decision. The law requires Carrier or NVOCC to provide the ISF-5.
- **For ISF-5 T&E, consignee is foreign party and has no ISF Bond. Is NVO/Forwarder the ISF importer?**
 - Yes, if the NVO/Forwarder is the party causing the goods to arrive within the limits of a U.S. port by vessel.
 - If foreign importer is the party causing the goods to arrive in the U.S., you would need to get Customs Assigned # and contact your surety for an ISF Bond.

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- 39) **Regarding bill matches. Does the electronic Manifest (AMS) also need to be filed 24 hours prior to sailing from ORIGIN - or can it be filed 24 hours prior to sailing at last international port before arriving in USA?**

The law requires the ISF to be filed 24 hours prior to sailing from origin of the mother vessel. Bill match will not occur until after the manifest has been filed. ISF regulations do not change those timelines.

- 40) **If the Ocean Carrier and/or NVOCC refuse to file the FROB, what are we supposed to do?**

If the Ocean Carrier/NVOCC refuses to file the ISF-5 for FROB cargo, they still risk a liquidated damage claim for a non-file of the ISF-5 that is required since CBP is now in the enforcement phase. For FROB cargo, the ISF Importer is the Ocean Carrier or the NVOCC.

- 41) **If the main purpose of ISF is security, why is CBP allowing carriers to board containers on vessels? Prior to sailing, carrier do know which shipments do not have ISF filing.**

CBP requires an ISF to be filed even if it is late because they conduct targeting before the vessel reaches the United States. CBP always reserves the right to place a Do Not Load message for national security purposes. Some Ocean Carriers will not accept cargo that does not have an ISF on file because it can create delays for other cargo consolidated with that shipment.

- 42) **In a T&E shipment (e.g., shipment arrived at a U.S. port via vessel to be transported to another port for export via air, which party should be responsible for the ISF-5 if the owner of the goods is not a party in the U.S.?) Shouldn't the NVOCC, the party responsible for the shipment transiting the U.S., be responsible?**

Based on the scenario you describe, yes we believe the NVOCC would be the responsible party. Please contact CBP if you need further clarification.

- 43) **What would be the measure to consider this to be late? Would this be per ETD like ISF-10 or would it be ETA to port U.S.?**

For practical purposes, CBP measures ISF timeliness as Vessel Departure Date minus 24 hours.

44) If one NVOCC is booking cargo via another NVOCC, who is liable to file the ISF-5? Should it be the lowest level HBL?

Yes, it should be the lowest level HBL that files the ISF-5.

45) Based on the information given on the webinar, ISF-5 must be transmitted on export freight out of Canada. Can someone please address this question? We have never received any information from Customs regarding this issue.

No, this is not the case. Slide 16 showed a shipment that started in Detroit and was destined for Hong Kong. The shipment went from Detroit where it was loaded onto a vessel in Vancouver, Canada with other cargo. That vessel then called on the port of Seattle before heading to Hong Kong.

As a result, an ISF-5 is required for any FROB when that vessel called on the port of Seattle. This example was used to show how FROB cargo applies in different scenarios and why the ISF-5 must be filed by the Ocean Carrier and/or NVOCC that causes the goods to enter the port limits of the United States and has access to the data to file the ISF-5.



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ISF-5 Export Scenario

- **Detroit to Hong Kong**
- **In Transit from Detroit through Canada and loaded onto vessel in Vancouver, Canada**
- **Calls at Port of Seattle before heading to Hong Kong**
 - For arrival into the Port of Seattle, an ISF-5 required for FROB
 - Who provides bond in export situations?
 - Same as import, the NVO/Forwarder would need to file an ISF-5 at the lowest bill of lading denomination and provide their bond to obligate the ISF-5
 - If there is an ISF Importer involved in the transaction that is a business decision and must have contractual arrangements either through POA and/or contract.

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46) In the following scenario, we typically just file the cargo manifest on the HBL level based on Mother Vessel B on board date. But what about the Feeder Vessel A and it calling a U.S. port? Santos, Brazil Feeder: Vessel A (Route: Santos-New Orleans-Cartagena) Transship: Cartagena Mother: Vessel B (Route: Cartagena-Houston) POD: Houston I don't think the NVOCC should be the ISF Importer responsible because we did not determine the vessel port rotation to begin with.

In this scenario, what you are calling Feeder Vessel A is not a feeder vessel the first time it arrives within the port limits of the United States. It is carrying FROB cargo, and the carrier or the NVOCC will be responsible for filing an ISF-5 for that cargo.

47) FROB shipment, are carriers or NVOCCs allowed to use a customs broker?

Yes, you can use a third party to file the ISF-5, which includes a customs broker. For FROB cargo, the carrier or the NVOCC is the ISF Importer so they must provide the customs broker with authority and POA to do the ISF-5 filing as well as the customs bond required for an ISF-5 filing.



- 48) The cargo was filed as an ISF but once it was here the importer decides to import into the U.S., what are the risks?**

If an ISF-10 was filed, the importer can then secure a licensed customs broker to make entry. The risk exists when a shipment arrives without an ISF-10 because then it will be filed late. If you are asking whether you can change from an ISF-5 to an ISF-10, yes you can do so.

- 49) Shipment is routed from Veracruz, Mexico to Rotterdam, Germany. Vessel touches Charleston, but cargo is not offloaded. Who is the ISF Importer?**

This is a FROB shipment since cargo was on board when the vessel called at the port of Charleston. An ISF-5 must be filed by either the Ocean Carrier or the NVOCC.

- 50) If a house bill will not be issued, will the steamship line at origin file the ISF-5?**

Yes, the ocean carrier would be responsible for the ISF-5 if an HBL is not issued.

- 51) Are you saying that if an ISF filing would be late, it would be better not to file it at all?**

No. As discussed during the webinar, it is always best to file an ISF late than to not file it at all. The example we discussed during the webinar was an ISF that was never filed and 3 months later a liquidated damage claim was issued for the non-file. In this scenario, the ISF Importer would need to file a formal petition to mitigate the claim. Filing the ISF at this point would not help since the liquidated damage claim was already issued.

- 52) Is ISF-5 required if a vessel calls at a U.S. port on its way to Canada and the shipment then transits through Canada and enters into the U.S.?**

Yes, since it is FROB cargo when it calls the U.S. port.

- 53) Will there be any do not load messages posted against bills in ACE for missing ISFs?**

At this time, Do Not Load instructions are reserved for national security purposes.

- 54) If an ISF-10 is allowed in lieu of ISF-5, is there a problem to just continue filing ISF-10 for all shipments?**

There is no problem continuing this practice.

- 55) What do you mean by multiple ISF timelines if it's a FROB shipment and the vessel is calling to multiple ports in US?**

This is referring to vessels that make multiple foreign port calls and load U.S.-bound cargo to multiple ports. As long as the vessel remains the actual vessel that will enter the port limits of the United States, then there will be separate ISF timelines for each location where U.S.-bound cargo was loaded.

For example, a vessel loads U.S.-bound cargo in Chennai, India then sails to Singapore and the same vessel loads more U.S.-bound cargo there. There are two ISF timelines. The first is 24 hours prior to loading in Chennai. The second is 24 hours prior to loading in Singapore.

However, if a vessel loads in Chennai, then unloads in Singapore and loads ALL the U.S.-bound cargo from India and Singapore on a second vessel, then there is only one ISF timeline based on the loading in Singapore.

- 56) If we file ISF-5 or ISF-10 and the vessel does not call on a U.S. port, do we have to delete ISF?**

Yes, and CBP can issue a liquidated damage claim if ISFs are not withdrawn.

- 57) Do we need to file multiple ISFs for one shipment?**

No, but you can update an ISF with more current information as you receive it.

- 58) For ISF-5 filing, do we need POA as customs broker to file ISF-5 if NVOCC is the consignee or carrier?**



Yes, you should get a POA from the NVOCC if they are responsible for filing the ISF-5 for FROB cargo.

- 59) Due to confusion of the ISF-5 Importer and traditional Importer of Record (IOR), we filed ISF-5 using traditional IOR as Importer. Cargo has arrived weeks ago. Should the ISF-5 be revised now that we realize the error?**

As discussed during the webinar, there is generally no need to revise the ISF after arrival. We should also mention that your question did not mention if this was a FROB, IE, T&E or FTZ transaction. As discussed during the webinar, the IOR as ISF Importer may be appropriate for an IE, T&E, or FTZ transaction if they are the owner, buyer, seller or consignee that caused the goods to arrive at a U.S. port of entry via vessel. If this is FROB cargo, the ISF Importer is the Ocean Carrier or the NVOCC.

- 60) Can a Carrier or Forwarder charge the importer of ISF-5 filing?**

This is a business decision.

- 61) To be clear, if the NVOCC issued house bills for the FROB, the NVOCC is the sole party responsible for the ISF-5, but the NVOCC may contract with other parties to do the filing for the NVOCC. (e.g. a service center, ocean carrier, etc.)**

Yes, that is correct.

- 62) If the ultimate consignee is a Canadian party and the vessel arrives at us port does an ISF-5 need to be filed?**

Yes, an ISF-5 must be filed. This is FROB, and the ISF-5 here is the responsibility of the carrier or the NVOCC.

- 63) What if an ISF is filed 24 hours before a vessel departs Colombo and a day or two later, the importer comes to know our cargo is rolled over to the next vessel, should the ISF be amended?**

If the BOL does not change, there is nothing to amend, but the ISF should be amended if there are changes to the BOL.

- 64) We have an importer who knows that cargo comes to the U.S. via either the West Coast U.S. or Canada, so requests that we file ISF-10 on everything. However, the NVOCC at origin sounds like they should be aware and filing ISF-5 on all Canada shipments via U.S. ports. Is there an issue if we file ISF-10 AND they file ISF-5?**

An ISF-10 satisfies any ISF-5 requirements. If the NVOCC in Canada has other FROB, then the NVOCC should file an ISF-5 for that cargo. However, there should not be two filings for the same BOL. This would result in a warning that duplicate ISF was on file and one of the parties would need to withdraw their filing.

- 65) We have had an IOR call us as the broker and ask for an ISF-5 to be filed while the vessel is in transit. So, it would then be a late ISF-5. Would we be able to file an ISF-10 on behalf of the IOR instead of an ISF-5? There are some carriers who have refused to do them.**

Yes, it sounds like you have an IOR who wants to file an ISF to bring their cargo into the U.S. The ISF would still be late, and the IOR would be subject to any ISF enforcement (cargo hold, exam, liquidated damage, etc.). As stated before, an ISF-10 can always be filed in lieu of an ISF-5.

- 66) Can I assume that if only a master bill is being cut, that any possible penalties will be sent to the steamship line and not the NVOCC or consignee?**

CBP will issue liquidated damages claims against the party that was responsible to file the ISF.

- 67) For IE & T&E, who is the responsible party for filing ISF? We heard it was the party who creates the bill, but that would mean NVOCC or carrier. In what instance would the IOR be responsible?**

Be careful not to confuse IOR with ISF Importer, which is the party causing the goods to enter the port limits of the United States, and it the best party to have access to the required data. The ISF



Importer for IE and T&E cargo can be the goods' owner, purchaser, seller or consignee, or agent such as a licensed customs broker.

68) When a shipment without an ISF goes to general order and a decision is made to return the goods to the shipper, is an ISF-5 required before it moves from GO?

No, please see Slide 13 of the presentation.

U.S. Customs and
Border Protection **Common ISF-5 Questions**

- **When cargo has arrived and has gone to general order, is an ISF-5 required to move the goods to a new consignee outside the country?**
 - An ISF-5 is not required since the cargo is no longer in transit when it goes into General Order. A new transaction must be started to export the cargo. CBP would not preclude the shipment from being exported due to prior violations unless it is prohibited cargo that CBP indicates must be destroyed under supervision.
- **Is an ISF-5 required if an ISF-10 was already filed?**
 - An ISF-5 is not needed if an ISF-10 has been filed.

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69) How will the NVOCC know what the HTS number(s) are, and will there be a flexible filing allowed for the HTS to be updated after departure?

This has been a requirement of the 24-Hour rule since 2003. There are widely-available online tools that will allow you to convert cargo descriptions into HTS codes. The HTS-6 requirement is not part of the flexible filing option.

70) If late, how late? Is there any specific period?

The law requires an ISF to be filed 24 hours prior to vessel departure of the mother vessel subject to additional guidance by each ocean port of entry. Any filing past that time will be considered late.

71) What happens when you have an ISF on file and then the steamship company does something and it knocks your ISF out of the system?

You will need to contact the steamship company to find out what transpired.

72) If an importer has been fined previously for ISF violations, are they at a larger risk of higher scrutiny by CBP?

Yes, in addition to each liquidated damage claim escalating after the first violation, CBP may conduct more intensive examinations of the cargo or refuse mitigation of claims.

73) If a vessel arrives into Detroit and an ISF-10 is done by the Importer of Record (IOR) prior to sailing, then some product is later determined to go to Canada. Does the ISF-10 cover the products to Canada or does an ISF-5 need to be done? Who is responsible to do this?

We assume these goods arrived at a U.S. ocean port and then went on to Canada. If so, an ISF-10 in lieu of an ISF-5 would be acceptable. We would also suggest you send the exact scenario to CBP for clarification since we are not sure we fully understand your question.

74) If an NVOCC co-loads with another NVOCC, which one is responsible for the ISF-5 for FROB?

The NVOCC that issues the HBL at the lowest level must file the ISF-5.

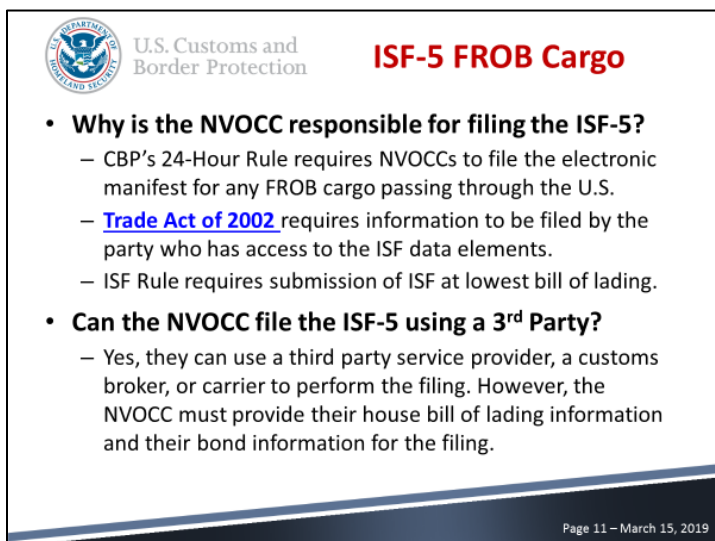


75) Are there any plans to enforce ISF-5 or ISF-10 for shipments entering the U.S. through Canada?

No, ISF only applies to the maritime environment.

76) If carrier is filing HBL and CANNOT (system restraint) file ISF-5 can they hire a 3rd party on their behalf to file ISF-5 since no NVOCC is involved?

Yes, this was discussed during the webinar. See Slide 11.



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ISF-5 FROB Cargo

- **Why is the NVOCC responsible for filing the ISF-5?**
 - CBP's 24-Hour Rule requires NVOCCs to file the electronic manifest for any FROB cargo passing through the U.S.
 - [Trade Act of 2002](#) requires information to be filed by the party who has access to the ISF data elements.
 - ISF Rule requires submission of ISF at lowest bill of lading.
- **Can the NVOCC file the ISF-5 using a 3rd Party?**
 - Yes, they can use a third party service provider, a customs broker, or carrier to perform the filing. However, the NVOCC must provide their house bill of lading information and their bond information for the filing.

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77) When multiple parties can fit the definition of ISF Importer, such as Ocean Carrier, NVOCC, owner and consignee on a T&E ISF-5, who will CBP pursue if all parties have a proper bond? Are all parties individually responsible?

CBP mentioned during the webinar that they would need to evaluate who the ISF Importer is in each transaction to determine the party that should receive the liquidated damages claim.

78) For ISF-5, the Ocean Carrier is requesting a U.S. importer should be mandatory. Is this correct?

For an ISF-5 FROB shipment, the Ocean Carrier or the NVOCC is the ISF Importer and does not require a U.S. importer of record. Please contact CBP if you need further clarification.

79) What if the original filing was filed as an ISF-5 but once the cargo is in the U.S., the importer decides to import, do we file an ISF-10, what are the risks?

Yes, you must file an ISF-10 in this instance. If you do not, you can face enforcement through a cargo hold and/or liquidated damage claim.

80) Is an NVOCC required by law to have a bond and submit ISF-5?

Yes, for ISF-5 FROB cargo shipments when the NVOCC is the party causing the goods to enter into the port limits of the United States.

81) If an importer has not filed ISF prior to arrival on a consolidated container, will it still delay the deconsolidation of the entire container affecting all other houses that were timely?

Yes, that is correct.

82) If a shipment is being admitted into an FTZ, is an ISF-5 required, not an ISF-10?

As discussed during the webinar, an FTZ shipment only requires an ISF-5 but in practice most importers of record process shipments into an FTZ as ISF-10 shipments. Either practice is acceptable.



83) Can the NVOCC be a foreign entity?

Yes, but they must have a customs bond to file ISFs, and this is typically the Activity Code 3 International Carrier Bond. Please also refer to the bond section of this Q&A below.

84) If a foreign NVOCC tries to request that the IOR's broker files ISF-5, does the broker:

a) Need the NVOCC's bond info to do so?

The IOR is not responsible for ISF-5s for FROB cargo, so the carrier of the NVOCC will need to file.

b) No POA since ISF is not customs business, correct?

No, ISF still requires a general POA.

c) Want to obligate either IOR bond or broker bond?

No, as stated, for FROB cargo, the carrier or the NVOCC is responsible for the ISF filing.

d) Does broker need to know if foreign NVOCC is bonded in U.S.?

Yes.

Bonds, Liquidated Damages Claims and Mitigation

85) For the ISF-5 surety bond, can a single ISF bond be purchased or is a continuous bond required for the ISF-5 importer?

An Activity Code 16 ISF-D Single Transaction Bond can cover an ISF-5 shipment. Please see slide 18.

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ISF Bond Requirements

- **ISF-5 or 10 allows use of different customs bonds**
 - Activity Code 1 Importer Bond (continuous only)
 - Activity Code 2 Bonded Carrier (continuous only)
 - Activity Code 3 International Carrier (continuous only)
 - Activity Code 4 Foreign Trade Zone (continuous only)
 - Activity Code 16 ISF-D Single or Continuous Bond
 - Bond contract between ISF Importer, CBP and Surety
- **Liquidated Damages (LD)**
 - Bond transmitted with the ISF receives the LD claim
 - What about non-files?
 - CBP also has penalty authority

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86) If an ISF-5 is required by the NVOCC, can they use an Activity Code 1 bond (importer/broker) or do they need to have an Activity Code 3 bond (international carrier)?

Any of the bonds shown on Slide 18 of the presentation can be used for an ISF-5 transaction including an Activity Code 1 Bond. The Activity Code 3 International Carrier Bond was only used as an example since it is required by NVOCCs who also file Ocean AMS for the 24-hour rule.

87) If the ultimate IOR has no bond on file, will an SEB be required for the ISF-5?

We assume you are referring to an IE or T&E transaction. If the IOR has caused the transaction and does not have an active continuous bond, you would need an Activity Code 16 ISF-D Single to obligate the ISF-5 Filing.

88) How can a Canadian business get an Activity Code 3 International Carrier Bond when we have no USA business?



Sureties are readily available in the U.S. and often write bonds for foreign companies. You can find a list of the Treasury-approved sureties here: <https://www.fiscal.treasury.gov/surety-bonds/list-certified-companies.html> or check with your customs broker.

89) A problem with filing late is that if the importer has no annual bond, surety will not usually approve a single entry bond.

You do not stipulate if this is an ISF-5 or ISF-10. Most sureties will issue a bond for a late ISF, however, they may have underwriting requirements and/or require some form of collateral since the importer may receive a liquidated damage claim for the late file. The Ocean Carrier or NVOCC is the ISF Importer for ISF-5 FROB shipments and would have their own customs bond. Ultimately, this is a business decision between you and your surety.

90) Late is any time after the 24 hours before the vessel departs to the U.S, correct?

Yes, timeliness is based on the vessel departure date of the mother vessel minus 24 hours.

91) Where does a possible penalty go if a foreign NVOCC does not have a U.S. presence and no ISF-5 is filed? Example: shipment from Europe to South America but stops in Miami. NVOCC does not have a U.S. presence. Who is responsible and who would be penalized?

For ISF-5 FROB cargo either the Ocean Carrier or NVOCC must file the ISF-5 and it does not matter if the NVOCC has a U.S. presence..

92) Are there any circumstances where liquidated damages claims are assessed by CBP against the third-party filer rather than the ISF importer?

Liquidated damage claims would only be issued against the third-party filer if they obligate their own customs bond. The liquidated damage claim stems from the customs bond that is submitted with the ISF.

93) All of my clients are IORs, and a couple take especially long at getting me ISF-10 details. I have reiterated the penalty for late filings. If the ISF-10 supersedes the ISF-5, do the same penalties apply?

The liquidated damage claim is issued for \$5,000 whether it is an ISF-10 or ISF-5 violation. The same mitigation guidelines also apply.

94) If no ISF is ever filed, will customs issue penalty to carrier and NVOCC at the same time since both are the responsible parties?

No, CBP would issue to the party that issued the bill of lading at the lowest level. If the NVOCC issued the HBL, they are the responsible party that would receive the liquidated damage claim.

95) Importer clarification on delivered duty paid (DDP) shipments. Under the definition of Importer Security filing Importer, is the Seller of the DDP shipment, also the U.S. IOR - eligible to be the ISF Importer? And in case of late filing of the DDP shipment, who will the penalty go to?

In the scenario you describe, we believe you are asking about an ISF-10. In the case of a DDP shipment where the foreign importer is acting as the U.S. IOR, they would typically be the ISF Importer as well, since they are causing the goods to arrive in the U.S. and have the best access to the ISF-10 data elements. As the ISF Importer, the liquidated damage claim would be issued to the foreign IOR.

96) In the case of non-files of IE or T&E cargo, it was indicated that CBP would issue liquidated damages claims against the ISF Importer. But for IE & T&E cargo, that is a wide variety of people. If a customs broker files a T&E or IE on cargo where no ISF-5 was filed, could they be subjected to a liquidated damages claim?

Yes, as the ISF Importer causing the goods to enter the port limits of the United States by vessel, the broker should have ensured that ISF-5 was filed.



- 97) For mitigation guidelines, it is mentioned that the first violation can receive the lowest mitigation amount. Does this mean that once you have your first violation, all others will be considered repeat violations, and treated as such for mitigation, forever going forward?

Yes, that is correct. See slide 22 for additional details.



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ISF Mitigation

Violation Type	Cause	Max.	1 st Violation	All Other	C-TPAT
ISF 5/10 Filing	Late File	\$5,000	\$1,000-\$2,000	\$2,500	50%
ISF 5/10 Filing	Inaccurate Filing	\$5,000	\$1,000-\$2,000	\$2,500	50%
ISF 5/10 Filing	Inaccurate Update(s)	\$5,000	\$1,000-\$2,000	\$2,500	50%
ISF 5/10 Filing	Failure to Withdraw	\$5,000	\$1,000-\$2,000	\$2,500	50%

Mitigating Factors
https://www.cbp.gov/sites/default/files/assets/documents/2018-Feb/10%2B2%20Mitigation%20Guidelines_2-6-18%20%2B2%29.pdf

- Maximum \$10,000 per any one ISF transaction.
- **6 Mitigating Factors:** 1) ISF progress since 1/26/09; 2) Small # of violations to shipments (%); 3) C-TPAT Importer Tier 2 or 3; 4) Demonstrated action to reduce future violations; 5) ISF filed late or Inaccurate, can mitigate if due to factors outside importer's control (i.e. carrier's fault).
- **4 Aggravating Factors:** 1) Non-cooperative; 2) Multiple errors on the ISF; 3) Rising or Deteriorating Error Rate; 4) Smuggling/Fraud.
- *CBP considers a late ISF that compromises targeting an aggravating factor.*

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ACE Questions

- 98) Can we run an ACE cargo query to see if an ISF-5 has been filed or does the ACE cargo query only reflect ISF-10 filing status?

Yes, a "3Z: BOL MATCHED TO ISF" message will be returned in an ACE Cargo Manifest Query at the ocean bill of lading level.

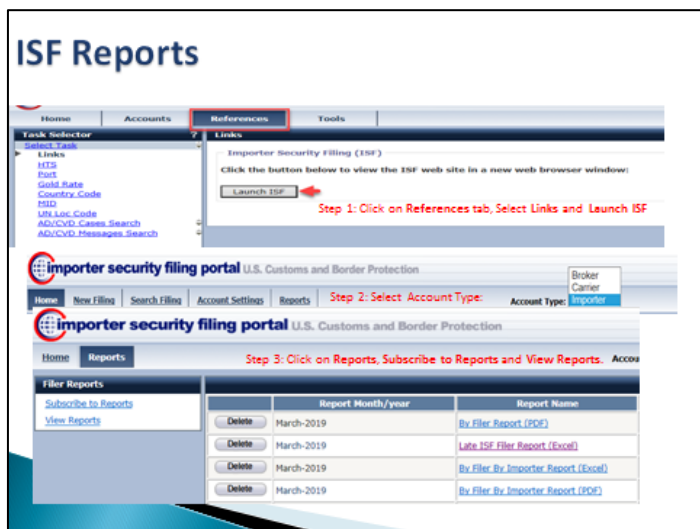
- 99) Will there be an ACE ISF report for the ISF-5 like the ISF-10? There are currently 3 available reports, Late ISF Importer Report, Importer Report, and Submission History Report?

As discussed during the webinar, CBP is working through the Trade Support Network (TSN) and ACE Trade Transformation Office to get ISF-5 reports available in ACE. Currently, reports are only available for ISF-10.

- 100) Will you share the instructions for running the report in ACE?

Once these reports are available to the trade, CBP will provide instructions.

To run the ISF-10 Reports, please see below.



101) Is it possible for interested parties to obtain vessel departure data that CBP uses to measure timeliness of ISF and/or AMS filings?

Sureties currently receive this data, but the date is often missing and CBP is working to improve.

102) Is ISF-5 still able to be filed on the ACE portal?

Yes.

103) We are seeing a delay of up to a whole day to "match" Master bill. This is after broker filed previous day. Any known CBP system problems?

The bill will not match until the bill of lading is filed in Ocean AMS. CBP is not aware of any system issues that would delay the match. When the ISF is accepted, CBP attempts a bill match and one is generated if the bill number and type match. ISFs are often filed prior to the carrier bill filing, and there is a scheduled job that runs a few times a day that picks up those bill matches and sends them out. As with any automated process, there will occasionally be issues that require a trouble ticket, but those instances are very rare. If the ISF filer has not received a bill match, there is generally nothing else for them to do, as it takes some time for the carrier to file the bill. Filers should contact their assigned client rep if there are serious issues.

Break Bulk Questions

We received several questions about break bulk shipments. Per CBP's FAQ on Vessels, break bulk cargo is defined as cargo that is not containerized and that cannot be classified as "bulk" cargo. For example, new and used vehicles will be classified as break bulk cargo. Although uniform in nature, vehicles have identifying marks (such as a Vehicle Identification Number or VIN). One necessary aspect of bulk cargo is fungibility. The presence of a VIN removes that component from the shipment of new or used vehicles.

It is important to note that the difference between bulk and break bulk is based not only on the type of cargo, but also on the way in which the cargo is stowed or loaded. For example, bananas stowed loosely in a hold (not in boxes or containers) will be considered bulk. However, palletized boxes of bananas loaded directly into a hold (but not loose or containerized) will be considered break bulk.

Per CBP's FAQ on ISF, break bulk shipments, while exempt from the vessel stow plan and container status message requirements, require the filing of an ISF. Break bulk cargo that is exempt from the timing requirements of the 24-Hour Rule are automatically exempt from the timing requirements of the ISF filing. ISFs for break bulk cargo that are exempt from the timing requirements of the 24-Hour Rule must be filed no later than 24 hours prior to arrival. Only carriers may apply for and receive an exemption to the 24-Hour Manifest Rule for break bulk cargo.



CBP, Cargo and Conveyance Security (CCS), has determined that the following list of commodities and commodity types can be classified as bulk cargo. To be classified as bulk, this cargo may not be containerized and must be easily identifiable as laden on the vessel. Any bundling of the following commodities must only be for the purposes of securing the cargo. This list may be changed and updated as deemed appropriate by CBP.

- Coils of steel and other metals
- Rails of steel and other metals
- Wire rods of steel and other metals (may be coiled or flat)
- Ingots of metal (precious or otherwise)
- Round bars of steel or other metal
- Deformed Bars/Rebars (of metal)
- Plates (of metal)
- Billets (of metal)
- Slabs (of metal)
- Pipes (of metal)
- Beams (of metal)
- Tubes/Tubing (of metal)
- Angles, shapes and sections (of metal)
- Sheets (of metal)
- Expanded metal
- Flat bars (of metal)
- Strand wire (of metal)
- Sawn Timber/Lumber as a commodity (not as packaging material)
- Paperboard/Fiberboard/Plywood as a commodity (not as packaging material)
- Paper products as commodity (wood pulp, newsprint and paper rolls and not as packaging material)
- Certain perishable goods, not in boxes, bags or containerized, and not frozen, but laden and stowed in a way similar to other types of bulk cargo (includes seafood and produce)
- Blooms (similar to billets and of metal)
- Anodes/Cathodes, in sheets only (may be corrugated)

104) For ISF-10, break bulk cargo such as steel coils/plates/beams were not required to file ISF, but for ISF-5, break bulk cargo is required? Please clarify – Thanks

Steel coils, etc. are not the only break bulk cargo that exists. For those break bulk cargoes that are not listed in the ISF FAQ as being treated as bulk by CBP, ISFs are required. If the goods can be classified as bulk, then no ISF is required.

105) What about RORO and break bulk cargo not subject to 24-hour rule? What timeline is CBP using to prove compliance? Is it 96 hours prior to arrival at the U.S.?

Please see break bulk details we provided above.

106) If break bulk cargo arrives, but never enters into the U.S., but is transloaded to a different vessel on the same location, will ISF be required?

It sounds like the cargo is being transloaded within the port limits of the United States, so it is possible that ISF-5 is required, depending on the kind of break bulk cargo it is. If the cargo is among the list of break bulk cargo that CBP considers bulk for ISF purposes, then no ISF is needed. Otherwise, an ISF-5 would be required.

107) Is the ISF-5 filing timeline the same for bulk carriers as it is for container carriers?

Bulk cargo does not require an ISF.

108) What about break bulk cargoes coming off a vessel in U.S. port then rail to Canada?

Unless the break bulk cargoes are the type considered by CBP to be bulk for ISF purposes, then an ISF-5 is required.